

**BEFORE THE MINNESOTA
BOARD OF DENTISTRY**

In the Matter of
Kayla M. Kleven, D.H.

**STIPULATION AND ORDER FOR
CONDITIONAL LICENSE**

The Minnesota Board of Dentistry ("Board") is authorized pursuant to Minn. Stat. ch. 150A, § 214.10, and § 214.103 to license and regulate dental hygienists, to refer complaints against dental hygienists to the Attorney General for investigation, and to take disciplinary action when appropriate.

The Licensure and Credentials Committee ("Committee") of the Board conducted an interview with Kayla M. Kleven ("Applicant") regarding obtaining a license to practice dental hygiene in the State of Minnesota. As a result, the Committee and Applicant have agreed that the matter may now be resolved by this stipulation and order.

STIPULATION

IT IS HEREBY STIPULATED AND AGREED by and between Applicant and the Committee as follows:

A. Jurisdiction. Applicant intends to obtain a license to practice dental hygiene in the State of Minnesota from the Board and is subject to the jurisdiction of the Board with respect to the matters referred to in this stipulation. Applicant states that she does not hold a license to practice dental hygiene in any other jurisdiction and does not hold any other professional or occupational licenses.

B. Facts. This Stipulation is based on the following Committee findings:

1. On June 21, 2004, before the District Court in the State of North Dakota, Applicant pled guilty to felony charges including one count for forgery and two counts for theft that had occurred in Cass County on or about December 19, 2003.

2. On April 10, 2006, Applicant was charged in Clay County District Court in the State of Minnesota with two felonies: Conspiracy to Commit Controlled Substance Crime First Degree-Sale; and Controlled Substance Crime Second Degree-Sale. On March 19, 2007, Applicant was convicted of reduced charges and sentenced by the judge to, among other things, the following: a maximum of 20 years of supervised probation; 90-days of jail time; an imposed fine and restitution; and completion of a chemical dependency evaluation/program.

3. On March 8, 2010, the Committee sent a confidential referral letter to Applicant instructing her to contact Health Professional Services Program ("HPSP") after reviewing her licensure application, which disclosed Applicant's convictions. On March 9, 2010, Applicant contacted HPSP in response to the Committee's referral letter.

4. On April 30, 2010, Applicant met with the Committee about her application to obtain a license to practice dental hygiene in the State of Minnesota. During her interview, Applicant admitted that she had relapsed using marijuana in January 2009.

C. Violations. The Committee views Applicant's practices as inappropriate in such a way as to require Board action under Minn. Stat. § 150A.08, subd. 1(2), (3), (6), and (8), and Applicant agrees that the conduct cited above constitutes a reasonable basis in law and fact to justify the disciplinary action under these statutes.

D. Disciplinary Action. Applicant and the Committee recommend that the Board GRANT Applicant a license to practice dental hygiene in the State of Minnesota. Applicant and

the Committee further recommend that the Board issue an order which places CONDITIONS on Applicant's license as a licensed dental hygienist in the State of Minnesota as follows:

CONDITIONS

Applicant's license shall be subject to the following conditions:

1. Verification. Within 15 days after being hired for employment at any dental practice, Applicant must submit to the Committee a signed written statement from the new employer or supervisor verifying that that person received and reviewed a copy of this stipulation and order.

2. Participation in HPSP.

a. Applicant must continue with her participation in the HPSP for monitoring of her chemical dependency. Applicant shall provide HPSP with a copy of this stipulation and order after it is adopted by the Board.

b. Applicant shall be monitored by HPSP until HPSP determines Applicant is qualified to practice without conditions.

c. Applicant shall comply with all provisions of her HPSP Participation Agreement, including revisions subsequent to this order. Applicant's failure to comply with her HPSP Participation Agreement shall be considered a violation of this stipulation and order.

d. Applicant shall abstain from ingesting, injecting, or otherwise taking or using any mood-altering chemical or drug, including, but not limited to alcohol. This prohibition does not apply to legend drugs, including controlled substances, which are prescribed for Applicant by a licensed physician or dentist as part of a course of treatment.

3. Probation. Applicant must comply with all terms and conditions of her

supervised probation as ordered by the judge of the Clay County District Court, State of Minnesota.

4. Other Conditions.

a. Applicant shall comply with the laws or rules of the Board of Dentistry. Applicant agrees that failure to comply with the Board's laws or rules shall be a violation of this stipulation and order.

b. Applicant shall fully and promptly cooperate with the Board's reasonable requests concerning compliance with this stipulation and order, including requests for explanations, documents, office inspections, and/or appearances at conferences. Minn. R. 3100.6350 shall be applicable to such requests.

c. In the event Applicant should leave Minnesota to reside or practice outside the state, Applicant shall notify the Board in writing of the new location within five days. Periods of residency or practice outside of Minnesota will not apply to the reduction of any period of Applicant's discipline in Minnesota unless Applicant demonstrates that practice in another state conforms completely with this stipulation and order.

E. Removal of Conditions. Applicant may petition to have the conditions removed from Applicant's license at any regularly scheduled Board meeting after Applicant has complied with all the conditions of her Participation Agreement with HPSP, but not less than three years after the date of this Order, provided that Applicant's petition is received by the Board at least 30 days prior to the Board meeting. At the time of Applicant's petition, Applicant shall have the burden of proof proving that Applicant has complied with her Participation Agreement with HPSP and the conditions of this stipulation and order and that the Applicant is qualified to practice without conditions. Applicant's compliance with these

conditions shall not create a presumption that the conditions should be removed. Upon consideration of the evidence submitted by Applicant or obtained through Board investigation, the Board may remove, amend, or continue the conditions imposed by this order.

F. Fine for Violation of Order. If information or a report required by this stipulation and order is not submitted to the Board by the due date, or if Applicant otherwise violates this stipulation and order, the Committee may fine Applicant \$100 per late report or other violation. Applicant shall pay the fine and correct the violation within five days after service on Applicant of a demand for payment and correction. If Applicant fails to do so, the Committee may impose additional fines not to exceed \$500 per violation. The total of all fines may not exceed \$5,000. Applicant waives the right to seek review of the imposition of these fines under the Administrative Procedure Act, by writ of certiorari under Minn. Stat. § 480A.06, by application to the Board, or otherwise. Neither the imposition of fines nor correction of the violation will deprive the Board of the right to impose additional discipline based on the violation.

G. Additional Discipline for Violation of Order. If Applicant violates this stipulation and order, Minn. Stat. ch. 150A, or Minn. R. ch. 3100, the Board may impose additional discipline pursuant to the following procedure:

1. The Committee shall schedule a hearing before the Board. At least ten days prior to the hearing, the Committee shall mail Applicant a notice of the violation alleged by the Committee and of the time and place of the hearing. Within seven days after the notice is mailed, Applicant shall submit a response to the allegations. If Applicant does not submit a timely response to the Board, the allegations may be deemed admitted.

2. At the hearing before the Board, the Committee and Applicant may submit affidavits made on personal knowledge and argument based on the record in support of their

positions. The evidentiary record before the Board shall be limited to such affidavits and this stipulation and order. Applicant waives a hearing before an administrative law judge and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

3. At the hearing, the Board will determine whether to impose additional disciplinary action, including additional conditions or limitations on Applicant's practice, or suspension or revocation of Applicant's dental hygiene license.

H. Other Procedures for Resolution of Alleged Violations. Violation of this stipulation and order shall be considered a violation of Minn. Stat. § 150A.08, subd. 1(13). The Committee shall have the right to attempt to resolve an alleged violation of the stipulation and order through the procedures of Minn. Stat. § 214.103, subd. 6. Nothing herein shall limit (1) the Committee's right to initiate a proceeding against Applicant pursuant to Minn. Stat. ch. 14, or (2) the Committee's and the Board's right to temporarily suspend Applicant pursuant to Minn. Stat. § 150A.08, subd. 8, based on a violation of this stipulation and order or based on conduct of Applicant before or after the date of this stipulation which is not specifically referred to in paragraph B. above.

I. Attendance at Interview. The Committee conducted a licensure interview with Applicant on April 30, 2010. The following Committee members were present: Candace Mensing, D.D.S.; and Nancy Kearn, D.H. Assistant Attorney General Daphne A. Lundstrom represented the Committee at the interview. Although Applicant was informed at the interview that she could be represented by legal counsel, Applicant has knowingly and voluntarily waived that opportunity.

J. Waiver of Applicant's Rights. For the purpose of this stipulation, Applicant waives all procedures and proceedings before the Board to which Applicant may be entitled under the Minnesota and United States constitutions, statutes, or the rules of the Board, including the right to dispute the facts contained in this stipulation and order and to dispute the adequateness of discipline in a contested proceeding pursuant to Minn. Stat. ch. 14. Applicant agrees that upon the application of the Committee without notice to or an appearance by Applicant, the Board may issue an order imposing the discipline specified herein. The Committee may participate in Board deliberations and voting concerning the stipulation. Applicant waives the right to any judicial review of the order by appeal, writ of certiorari, or otherwise.

K. Board Rejection of Stipulation and Order. In the event the Board in its discretion does not approve this stipulation or a lesser remedy than specified herein, this stipulation and order shall be null and void and shall not be used for any purpose by either party hereto. If this stipulation is not approved and a contested case proceeding is initiated pursuant to Minn. Stat. ch. 14 and section 150A.08, Applicant agrees not to object to the Board's initiation of the proceeding and hearing the case on the basis that the Board has become disqualified due to its review and consideration of this stipulation and the record.

L. Record. This stipulation, related investigative reports and other documents shall constitute the entire record of the proceedings herein upon which the order is based. The investigative reports, other documents, or summaries thereof may be filed with the Board with this stipulation. Any reports or other material related to this matter which are received after the date the Board approves the stipulation and order shall become a part of the record and may be considered by the Board in future aspects of this proceeding.

M. Data Classification. Under the Minnesota Data Practices Act, this stipulation and order is classified as public data. Minn. Stat. § 13.41, subd. 4. All documents in the record shall maintain the data classification to which they are entitled under the Minnesota Government Data Practices Act, Minn. Stat. ch. 13. They shall not, to the extent they are not already public documents, become public merely because they are referenced herein. Pursuant to federal rule (45 C.F.R. parts 60 and 61), the Board must report the disciplinary action contained in this stipulation and order to the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank.

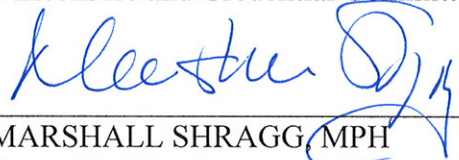
N. Entire Agreement. Applicant has read, understood, and agreed to this stipulation and is freely and voluntarily signing it. This stipulation contains the entire agreement between the parties hereto. Applicant is not relying on any other agreement or representations of any kind, verbal or otherwise.

O. Service and Effective Date. If approved by the Board, a copy of this stipulation and order shall be served personally or by first class mail on Applicant. The order shall be effective and deemed issued when it is signed by the President or Vice-President of the Board.

On behalf of the Licensure and Credential Committee


KAYLA M. KLEVEN

By:


MARSHALL SHRAGG, MPH
Executive Director

Dated: June 15, 2010

Dated: JUNE 15TH, 2010

ORDER

Upon consideration of the foregoing stipulation and based upon all the files, records, and proceedings herein,

The terms of the stipulation are approved and adopted; Applicant is granted a license to practice dental hygiene in the State of Minnesota and the recommended disciplinary action set forth in the stipulation is hereby issued as an order of this Board placing CONDITIONS on Applicant's license effective this 25th day of June, 2010.

MINNESOTA BOARD
OF DENTISTRY

By:



JOAN SHEPPARD, D.D.S.
President